

amendment is to take effect unless the MSC allows a shorter period. The MSC will approve or disapprove the proposed amendment in accordance with §104.410 of this part.

(3) Nothing in this section should be construed as limiting the vessel owner or operator from the timely implementation of such additional security measures not enumerated in the approved VSP as necessary to address exigent security situations. In such cases, the owner or operator must notify the MSC by the most rapid means practicable as to the nature of the additional measures, the circumstances that prompted these additional measures, and the period of time these additional measures are expected to be in place.

(4) If the owner or operator has changed, the Vessel Security Officer (VSO) must amend the Vessel Security Plan (VSP) to include the name and contact information of the new vessel owner or operator and submit the affected portion of the VSP for review and approval in accordance with §104.410 of this part.

(b) *Audits.* (1) The CSO or VSO must ensure an audit of the VSP is performed annually, beginning no later than one year from the initial date of approval and attach a letter to the VSP certifying that the VSP meets the applicable requirements of this part.

(2) The VSP must be audited if there is a change in the company's or vessel's ownership or operator, or if there have been modifications to the vessel, including but not limited to physical structure, emergency response procedures, security measures, or operations.

(3) Auditing the VSP as a result of modifications to the vessel may be limited to those sections of the VSP affected by the vessel modifications.

(4) Unless impracticable due to the size and nature of the company or the vessel, personnel conducting internal audits of the security measures specified in the VSP or evaluating its implementation must:

- (i) Have knowledge of methods of conducting audits and inspections, and control and monitoring techniques;
- (ii) Not have regularly assigned security duties; and

(iii) Be independent of any security measures being audited.

(5) If the results of an audit require amendment of either the VSA or VSP, the VSO or CSO must submit, in accordance with §104.410 of this part, the amendments to the MSC for review and approval no later than 30 days after completion of the audit and a letter certifying that the amended VSP meets the applicable requirements of this part.

[USCG–2003–14749, 68 FR 39302, July 1, 2003; 68 FR 41915, July 16, 2003, as amended at 68 FR 60515, Oct. 22, 2003]

PART 105—MARITIME SECURITY: FACILITIES

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APPENDIX A TO PART 105—FACILITY VULNERABILITY AND SECURITY MEASURE SUMMARY (CG-6025).

AUTHORITY: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

SOURCE: USCG-2003-14732, 68 FR 39322, July 1, 2003, unless otherwise noted.

Subpart A—General

§ 105.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

§ 105.105 Applicability.

(a) The requirements in this part apply to the owner or operator of any U.S.:

- (1) Facility subject to 33 CFR parts 126, 127, or 154;
- (2) Facility that receives vessels certificated to carry more than 150 passengers, except those vessels not carrying and not embarking or disembarking passengers at the facility;
- (3) Facility that receives vessels subject to the International Convention for Safety of Life at Sea, 1974, chapter XI;

(4) Facility that receives foreign cargo vessels greater than 100 gross register tons;

(5) Facility that receives U.S. cargo vessels, greater than 100 gross register tons, subject to 46 CFR chapter I, subchapter I, except for those facilities that receive only commercial fishing vessels inspected under 46 CFR part 105; or

(6) Barge fleetings facility that receives barges carrying, in bulk, cargoes regulated by 46 CFR chapter I, subchapters D or O, or Certain Dangerous Cargoes.

(b) An owner or operator of any facility not covered in paragraph (a) of this section is subject to parts 101 through 103 of this subchapter.

(c) This part does not apply to the owner or operator of the following U.S. facilities:

(1) A facility owned or operated by the U.S. that is used primarily for military purposes.

(2) An oil and natural gas production, exploration, or development facility regulated by 33 CFR parts 126 or 154 if:

(i) The facility is engaged solely in the exploration, development, or production of oil and natural gas; and

(ii) The facility does not meet or exceed the operating conditions in § 106.105 of this subchapter;

(3) A facility that supports the production, exploration, or development of oil and natural gas regulated by 33 CFR parts 126 or 154 if:

(i) The facility is engaged solely in the support of exploration, development, or production of oil and natural gas and transports or stores quantities of hazardous materials that do not meet or exceed those specified in 49 CFR 172.800(b)(1) through (b)(6); or

(ii) The facility stores less than 42,000 gallons of cargo regulated by 33 CFR part 154;

(4) A mobile facility regulated by 33 CFR part 154; or

(5) An isolated facility that receives materials regulated by 33 CFR parts 126 or 154 by vessel due to the lack of road access to the facility and does not distribute the material through secondary marine transfers.

(d) The TWIC requirements found in this part do not apply to mariners employed aboard vessels moored at U.S.